

F880

J78

0 017 187 261 3

SPEECH

OF

24677
HON. S. JONES, OF GEORGIA,
"

ON

THE OREGON QUESTION.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, THURSDAY, JANUARY 15, 1846. }

WASHINGTON :
BLAIR & RIVES, PRINTERS.
1846.

F 880.
.578

H 29 MAY 59

THE OREGON QUESTION.

On the Resolution for terminating the joint occupation of Oregon.

Before proceeding, Mr. JONES, being informed by the Chairman that a motion to amend was not in order, sent the following resolution to the Clerk's table; which at his request was read by the Clerk:

"Resolved, That the people of the United States 'have full reliance upon the discretion, the patriotism, and the wisdom of the President, and those advisers whom the Constitution has placed around him; and feel willing, should negotiation be renewed, to submit the rights of the United States to his care, management, and protection, with an entire and abiding confidence that those rights, the honor and best interests of the United States, will be sustained, defended, and protected."

It is my intention, Mr. Chairman, to vote for the resolution offered by the Committee on Foreign Affairs, as proposed to be amended by the chairman of that committee; and I shall offer the resolution which has just been read as an additional section, by way of amendment.

It is due both to myself and my constituents, as well as to this House, that my reasons should be given for this course, and I shall now proceed to do so.

Unless our title to Oregon be good and sufficient, it would be improper to vote for that resolution. But, on the other hand, if we have the best title to that territory, but one course is left, and that is, to give the notice, fearless of consequences.

It cannot be denied that Spain made the first discoveries on the western shore of this continent; and, by discovery, had the right of settlement. I am free to admit this right of settlement, growing out of discovery, could only endure for a reasonable time; and if it were not improved within a reasonable time, any other nation might, by actual settlement, (that is, reclaiming the wild lands by cultivation, building up cities, &c.; and not by fishing and hunting, and erecting temporary huts for those purposes only,) deprive Spain of the right of discovery, and obtain a better title—that by settlement. Has England or any other nation made any such settlements in any part of the Oregon territory, (except in the valley of the Columbia, to which I will presently call your attention,) so as to deprive Spain of her right by discovery? I think not. Can any gentleman on this floor point to the place where any nation has made any settlement which would deprive Spain of that right?

I know of none; for I do not call fishing and hunting-huts, to protect seal-skins and peltry, such settlements. I refer particularly to that part of the territory above 49°; for I shall contend and show that the United States is the only nation that had interfered with this right of Spain, by discovery of the mouth of the Columbia, and the exploration and settlement of the valley of that great river of the west. Spain, then, having acquired the right of settlement by discovery, by the convention or treaty of 1819 transferred all her rights to the United States.

But we are told, that before the treaty of 1819 she had parted with some of those rights, and transferred them to England by the treaty of the Escurial, commonly called the Nootka sound convention. We will examine this presently. By the settlement of Canada on the Atlantic, France claimed the right by continuity to all the land to the Pacific ocean; and by the settlement of the English provinces south of Canada, England claimed by continuity the right of territory also to the Pacific; and she asserted and embodied this claim in the several charters to her American provinces, by granting, in express terms, the whole territory bounded on the west by the Pacific ocean. In the war commonly called the "Old French War," which was closed by the treaty of 1763, Canada was captured by Great Britain, and France ceded to England all her right to that province east of the Mississippi, and England ceded to France all her right west of that river on the Pacific, not only to that part of Canada which France claimed by continuity, but to all the territory which England claimed by continuity as appended to her American provinces. I shall not stop here to inquire whether this right by continuity, claimed by England, be good or bad—that is not important; she ceded all her right to France, and she is now barred—as we would say in law *estopped*—from setting up any claim against France and those claiming under her. In the treaty of 1803, France ceded to the United States all her rights; and Spain alone remaining to contest the rights acquired by that treaty from France, in 1819 the rights of Spain were added to those acquired from France, and both became vested in the United States. It may be urged that England had no title to any part of Oregon in 1763; that she claims by right of discovery and settlement since that time. That may be so. But, sir, having made the cession of all claims to France in 1763, she could not afterwards, in equity and justice, ac-

quire any rights in contravention of the rights of France, and she has not, in point of fact, done so.

Spain having first acquired the right by discovery, no subsequent right by discovery can be set up; and England never has acquired a right by actual settlement—she never has made settlements north of 49°, and her settlements in the valley of the Columbia were posterior to those of the United States, (as I will presently show,) and could not, therefore, constitute any title. Being without title, either by discovery or settlement, to any part of Oregon, she invokes the aid of the Nootka convention; and this naturally brings us to the consideration of the stipulations of that convention, and the rights acquired by England under it. By the terms of that convention, the subjects of Great Britain were authorized to land “on the coasts of those seas, in places not already occupied, *for the purpose of carrying on their commerce with the natives of the country, or of making settlements there.*” It is a sound principle that “*inclusio unius est exclusio alterius*”—the insertion of certain and specified purposes excludes all others, and that the right given of trading with the natives does not give any claim to territory, jurisdiction, and sovereignty. The claim of England, then, under the Nootka convention, can only extend by the stipulations of the convention to the purposes of settlement and trade, and cannot extend to the right of soil, jurisdiction, and sovereignty. Having thus entered into this convention, and made their settlements for the purpose of trade with the natives, all the improvements or settlements made by English subjects since that time must be considered as made under that treaty, in accordance with and to carry out the purposes alleged in that treaty, and can add nothing to the rights of England.

If a man by contract with me enters and remains in possession of my land for purposes specified in the contract, his possession and improvements can never ripen into a title; while if he had entered without permission and held adversely to my title, long continued possession and improvements might give him a good and indefeasible title. So, sir, England having made all her improvements for the purposes of hunting, fishing, and trading with the natives, under the Nootka convention, can never insist on them for any other purpose, and can never bring any aid to her claim under that convention, by the settlements that may have since been made. England, then, having no rightful claim to Oregon by discovery, can set up none by settlement under the Nootka convention, as all made under that convention were for the purposes of settlement and trade with the natives.

Again: the Nootka convention was entered into in 1790, and England and Spain went to war in 1796, and by war all treaties between the parties are abrogated. While this is not denied as a general principle by the English Minister, it is contended this treaty recognised or ceded to England certain rights of soil, jurisdiction and sovereignty; in other words, that property in the country was admitted to be in Great Britain. There is nothing in the stipulations of the treaty which will warrant such a conclusion. England was authorized to land in all places *not already occupied*, “for the purpose of carrying on commerce with the natives of the country, or of making settlements there;” and this agreement neither adds to nor diminishes the

title which she had before that treaty. If she had a good title before that time, that treaty does not impair it; if she had a bad title, it does not strengthen it; and if she had no title, it does not give her one, other than “for the purpose of carrying on commerce with the natives of the country and of making settlements there.” Therefore, according to international law, that treaty was abrogated by the war of 1796. This principle of international law cannot be denied by Great Britain. She has contended for it against the United States. By the treaty of 1783, we had the right to fish on the Banks of Newfoundland, and to erect establishments for the curing of fish, &c. By the war of 1812, Great Britain contended that the stipulations of the treaty securing these rights were abrogated, and the plenipotentiaries of the United States, acting upon the American principle of “demanding nothing that is wrong,” admitted the principle, and submitted to less advantageous conditions than we had under the treaty of 1783. The treaty of the Escorial being then abrogated by the war of 1796, England was thrown back on the rights she possessed before the Nootka convention; and before that she had neither the right of discovery nor of settlement.

The only nation which could interfere with the right of discovery belonging to Spain, is the United States, by the discovery of the mouth of the Columbia river, the exploration of that river and its tributaries, and the settlement made by American citizens at its mouth. In 1789, Captain Gray first ascertained the existence of the river; in 1792 he entered the mouth and sailed some miles up the river, trading with the natives; and in 1805–6, Lewis and Clarke explored it by order of Mr. Jefferson, then President of the United States. In 1810, a settlement (Astoria) was made by citizens of the United States. So far as the valley of the Columbia was concerned, and indeed all the country drained by that river and its tributaries, according to the laws of nations, the United States alone had the right to contest the right of Spain acquired by discovery. It may be alleged that England has also made settlements in the valley of the Columbia. This will not be denied; but it confers no right. As no subsequent discovery can destroy the right of Spain by discovery, so no subsequent settlement can injure or destroy the right, by settlement, first acquired by the United States. And in further confirmation and completion of this right of the United States, her citizens have continually migrated and populated that country since that time, and in later years, not by scores and hundreds, but by thousands; and now more than eight-tenths were and are citizens of these United States.

Without admitting that a sufficient title has not been demonstrated to the whole country, I am willing to meet gentlemen, who suggest doubts as to our title, on their own ground; and I will ask if any man in this House is prepared to deny that we have the better title to the whole territory?

It has not been denied by the English minister that the title of the United States is *equally valid* with that of England. Lord Castlereagh “*admitted, in the most ample extent, our right to be reinstated,*” (in possession,) “*and to be THE PARTY IN POSSESSION WHILE TREATING OF THE TITLE;*” and Mr. Pakenham urges the division proposed

by him on the grounds of necessity and convenience to the interest of Great Britain. No other nation than the United States can put up a decent claim to that country, unless England, in the language of my colleague [Mr. TOOMBS] has the right to be considered the residuary legatee from Adam, to all the earth to which no other nation can show the best possible and perfect title; and that she has the right, therefore, to order us, *ex cathedra*, to deliver the possession to her. This imperative language had been used to her youthful colonies in 1776. Those colonies had grown into manhood, not under her fostering care, but by her neglect; and when their strength was only three millions, showed that the Anglo-Saxon blood was improved by the spirit of liberty, and proved to the world that

"Thrice is he armed that hath his quarrel just;
And he but naked, though locked up in steel,
Whose conscience with injustice is corrupted."

We then defied the gigantic power and countless wealth of Britain; and shall we now cower before her frowns, when our population numbers twenty millions?

While our right to the country has not been denied, we have been told of the immense strength and power of England, of the vastness of her resources, of her war-steamer, her line-of-battle ships, and all that vast armament which catches every breeze and whitens every sea, and by which she has assumed to call herself the mistress of the ocean. I can as little fear the power of England as this House did, at the last session, fear the impotency of Mexico. You did not hesitate to annex Texas (even to the Rio Grande) to the Union, despite the remonstrances of Mexico; why now hesitate to give the notice, regardless of the growling of the British lion? For my part, I much prefer "to rouse the lion than to start a hare." I love a "foeman worthy of our steel," and would sooner throw the gaze of battle to proud, and haughty, and powerful England, than to bullying, and blustering, and impotent Mexico.

The next question for our consideration is, the propriety of giving notice to England, and the consequences which may follow. And here I wish it distinctly understood that, having ascertained what the honor and best interests of our country demand and require, I am almost wholly regardless of consequences. The people whom I have the honor to represent would spurn me from their confidence with contempt, were I to place in the scale the danger of a contest with England against the honor and interests of the United States.

Let us, then, inquire whether the notice ought to be given. The President has told us that our proposition has been rejected and withdrawn; and that this rejection, and the extraordinary and wholly inadmissible demands of the British Government, "afford satisfactory evidence that no compromise which the United States ought to accept can be effected." Can we offer to renew the negotiations under these circumstances? And if we were to do so, can we expect any other answer than the one we have already received, and that, too, more haughtily expressed? Have we any reason to believe the minds of the English ministers have changed, and that they will now accept what they have before so promptly—not to say rudely—rejected? If any such exist, I have yet to be informed of them. Does the President expect they will accept any

that we can offer, or that we can accept any they will offer? He has told us, in plain and distinct terms, they will not; and looking over the whole subject-matter, and discharging the high duties imposed on him by the Constitution, he has, without hesitation, and without shrinking from the responsibility of the office in which he has been placed by the people—the greatest in the world—advised us to direct him to give the notice. Some gentlemen are willing to leave it to him. No, sir. It properly belongs to us; and if, as some gentlemen fear, it will lead to war, the Constitution emphatically requires us not to shrink from that responsibility, but fearlessly to determine all questions of peace and war. It would be a shameful abandonment of duty to require the President to determine that question, that we might avoid the consequences, by telling our constituents, "They cannot say that we did it." Again, sir: Almost every gentleman who has addressed this House has expressed his conviction that our title is good and sufficient, since the able exposition of that title by our Secretaries of State; and scarcely a man can be found, throughout the length and breadth of this land, that is not entirely satisfied of the goodness of that title. How, then, can we refuse to carry out the judgment they have pronounced, by taking possession of our own property, so soon as a due regard to treaty stipulations will permit? A refusal to do so will involve us in this very unpleasant dilemma: either we are not sincere, and do not believe the title to be good, or we are afraid to assert our rights against the power of England; or, what is still worse, that we fear to take upon ourselves the responsibility. From this there is no escape. Let us, then, determine for ourselves and our constituency, whether the notice shall be given, and direct the President accordingly.

We come now to inquire, not whether war will follow our resolution to give the notice, but whether it will be a just and sufficient cause of war. Having satisfied our minds on this question, we have but one course to pursue—"to go where duty calls us;" and we shall be recreant to our trust if we fail to do so. By the convention of 1827, it is expressly provided that either party may terminate the joint occupancy by giving twelve months' notice, and it surely cannot be contended that it will be just cause of war to give notice in pursuance of the stipulations of the treaty. It has been suggested that we should wait, and let England give the notice. Is it believed she will do so, or is there any man here or elsewhere prepared to say if she were to give the notice it would be justifiable cause of war? I suppose not. Why, then, should we believe it would be a just and sufficient cause of war to her? However, we are told, although the notice of itself would not be sufficient cause of war, yet we are about to pass laws extending civil and military protection over the territory and inhabitants of Oregon. This is certainly true; and yet the passage of those laws can be no cause of war. England has passed such laws more than twenty years ago, and the United States have not declared war. The President and Congress have not deemed them sufficient cause for war, or they have tarnished the honor and disgraced the American name by basely and tamely submitting to such humiliation.

While it cannot and will not be seriously contended that either or both these things will be sufficient cause of war, there are many who will insist that England will go to war; and almost in the same breath hold up, *in terrorem*, her large standing army, her extensive navy, and her immense military and naval armaments in every quarter of the globe. She has need for them all where they are. She cannot withdraw her forces from India—from Ireland—from the island of Great Britain itself; she needs them all for the security of her India possessions and internal tranquillity at home; and she has no force to spare for the conquest of any part of the United States. And it had been said we were unprepared for war, and in a defenceless situation. This may be true. We are now much stronger than we have been in any war with England. In '76 she was little less powerful, in 1812 she was more powerful, than she is now. Our population has swelled to more than twenty millions; in 1812 we could not number more than eight, and in 1776 we had only three millions. But I fear we may be in a more weak and defenceless situation. Then we had stout hearts and strong arms, and the battle-cry was, "Liberty or death." Now we have the whispers of fear even within these walls. I fear we may be less prepared, not in ships and in men and in all the munitions of war, but that our hearts quail with fear at the prospect of a struggle with the mighty power of England. I love peace, and would go as far to preserve peace—honorable peace—as any man on this floor. My constituents have a deep interest in the preservation of peace; but, sir, they would despise me, and spurn their representative with scorn who would tell them he had secured peace by the sacrifice of the rights and the honor of his country, and that he had prevented a war by yielding to the laughty demands of Britain all she required. I cannot and will not do it.

We have been told of the wisdom and sagacity of the English ministers. It is upon this very wisdom and sagacity that my opinion is predicated, that they will not go to war without just and sufficient cause. They are wise and sagacious, and will, in the consideration of the question of peace or war, not confine themselves to Oregon, but take a survey of all the interests of Great Britain most certainly to be affected by the decision of it. Sir Robert Peel has been emphatically styled the "balance-sheet minister," for the reason that he has a due regard to the commerce of England—the source of her wealth and power, the sinews of her strength; and he will ponder long ere he will consent to its entire destruction. I will not deny Great Britain can do us almost incalculable injury. But she is by no means invulnerable. She must suffer more in the conflict than we. Her victories, like those of Pyrrhus, will ruin her. The pressure and the calamities of war may bear us down, and retard for a season our onward march, but the recuperative energies of this young Republic will soon restore her. Not so with England. Break the charm of her maritime power, and the mighty fabric of her extended empire may crumble into ruins.

In the sagacity and wisdom of her ministers, we have an almost certain guaranty that war will not immediately follow the giving of notice, and that it will not be declared, if ever, till the expiration of

twelve months. She must have two crops of cotton to keep her manufactories employed—the one now being carried to her, and the one which will be grown this year. I cannot believe that Great Britain will go to war but in the last extremity—not from fear, for she is a brave and fearless nation; she is too wise to sacrifice all her important interests, and rush into a war for the acquisition of a country to which she knows she has the weaker title; and in defence of that title, which can only be defended by her arms. She cannot and she does not expect to acquire any glory in a contest with the United States.

Can any man believe those wise and sagacious statesmen are prepared to turn loose her thousands of operatives from the workshops and cotton-mills into the streets to starve, and add to her already bloated pauperism? Are they willing to destroy her manufactories to spread ruin and desolation among her whole commercial and shipping interests? Commerce is the source and fountain of her wealth and her power; and this is well understood by all her leading men. What has England done, or rather, what has she not done, for the advancement and protection of her commerce? In all her laws, her negotiations, and her wars, she has looked with an eye single to the promotion of that darling and cherished interest. In peace and in war she has never for a moment lost sight of it; and when her negotiators have failed, her admirals have used the more mighty argument—line-of-battle ships. Without hesitation, she has violated her treaties and the neutrality of other nations in the capture of the Danish fleet at Copenhagen; she imprinted a deep stain on her national honor by chaining Napoleon, who threw himself into her arms for protection, to the rock of St. Helena; and a foul blot on her escutcheon, in forcing her opium upon the imbecile Chinese at the cannon's mouth. In barbaric ages, Tamerlane confined and exhibited the captured Bajazet in an iron cage. In more civilized times, Francis the First, who lost all but his honor at the battle of Pavia, was generously liberated by Charles the Fifth; but Christian, philanthropic England, deemed herself excusable, for the advancement of commerce, to follow the barbaric rather than the civilized example.

Will they be satisfied to lose the carrying trade of the world? In all her wars heretofore, England has always been able to obtain soldiers from the Continent, and to retain the carrying trade, for her contests have generally been with the continental nations; and she has always been able to involve some of them in the same contest who would furnish the men, while her commerce enabled her to furnish the money. Now, she must depend on her own men, and lose that trade which poured millions into her treasury with which to subsidize the soldiers of other nations. A war with the United States will deprive her of that trade; and though her sails may catch every breeze, and whiten every sea, they cannot escape the American cruisers. They may fly to the uttermost bounds of the sea, and even there the broad stripes and bright stars will follow them. The high price of insurance will force that trade into neutrals. Time was when the loss of that trade would endure only with the war. Now, when the commercial marine of the continent has increased, through a long peace, that trade once lost has departed forever

Again, sir; are they prepared for an increase of her public debt? Will her capitalists and bankers agree to it? England went out of the war with France with a debt of £800,000,000, and thirty years of peace has not reduced that enormous debt more than £50,000,000; although every necessary of life—even the air they breathe—has been taxed to exhaustion; and the haughty aristocracy has been compelled to disgorge its overgrown wealth for the support of the country. Will they consent to lend their money, and swell to excess an already unwieldy debt on the credit of a Government which can scarcely pay the interest of that already accumulated? Or will the people of England, or can they, bear any increase of their burdens?

And where is Ireland, and what is her situation? Can the British ministers veil their eyes to it, when they know she waits but the occasion of war to enforce her demands? Are they prepared for an unconditional repeal of the Union, and to grant to Ireland her own parliament, with an equal participation in the blessings of her Government? Or do they believe, without these concessions, Ireland will assist in the war, or even remain quiet, and permit her to withdraw her troops and send them to this country? No, sir; depend upon it, the first gun discharged against an American ship, an American battery, or an American fort, will be the signal for the Irish nation to rise, and, with the voice of authority which cannot be disobeyed, demand a redress of all their grievances.

And will Canada be safe? Rely upon it, the war will be fought in Canada. Are the inhabitants of Upper Canada content with the English rule? Will they not readily join our standard, and strike for liberty, when they know we are able to protect them? Will Lower Canada linger behind her sister? Now, sir, I wish not to be misunderstood. I do not desire to conquer Canada. I would not if I could. I hope not to live to see the day when the Government of the United States shall be extended by conquest. But I would extend to them the blessings of our free institutions, and invite them to partake, and my word for it, another annexation would take place despite the diplomacy and the cannon of England. All these things are well known to England, and she fears them too. She well knows she must seal her own destruction by a war with the United States, which would only retard and not materially injure our prosperity.

But if, under all these circumstances, regardless of all the consequences which must follow in the train of war, the English ministers determine to resort to the *ultima ratio regum*—the artillery and the bayonet—we shall have the proud consolation of knowing that we have discharged our duty; that we have only demanded our rights; that we have adhered to the maxim of the fearless, lion-hearted Jackson, "to demand nothing that is wrong, and to yield nothing that is our right;" and that all the blood which may be spilled in this dire contest must lie on the skirts of England.

Mr. Chairman, there is one memorable fact in the history of our Government, which must fill the

heart of every American with proud exultation—that we have never committed an act of injustice and oppression upon other nations. While we have been compelled to demand indemnity for spoliation upon our commerce and our citizens in manifold instances, in no one case has it ever been asked for of us.

We need not fear that war will come; but if it does, we are ready for the contest. Let but the clarion of war be sounded, and notwithstanding the differences of opinion which may be here expressed, there will be but one opinion over this wide-spread country. From the lakes to the *Rio del Norte*, there will be but one voice and one heart, echoing the cry "Ah, 'tis sweet, 'tis sweet to die for our country"—that sentiment, immortalized by the dying tongue of the noble Warren, the hero of Banker Hill, the first sacrifice on the altar of his country.

Sir, I have heard with feelings of mortification and regret, the declaration, on this floor, that if we pass this resolution to give notice, England is obliged to declare war—that her honor demands it. This reminds me of that officious friendship which is sometimes offered, and induces some persons, upon a slight controversy, to believe that they are obliged to fight. My hope and consolation are, that Sir Robert Peel will not hear of them, or hearing will not heed them. If he were to act from those suggestions, or be influenced by those opinions, then he must resort to arms; while, if left to the promptings of his own sagacity, and the interests of England, he will not disturb the general peace. Whether peace or war ensue, we have the proud satisfaction of knowing we have done our duty, and used every means to secure an honorable peace. But if the gates of Janus must be thrown open, and war must come, the hearts of the American people are ready for the conflict. Raise "high the banner of our pride;" fling to the winds the broad stripes and bright stars, the glorious banner of our country; and every heart will respond to the poet—

"Oh, if there be within this earthly sphere,

A boon, an offering, Heaven holds dear,

'Tis the last libation Liberty draws

From the heart that bleeds and breaks in her cause."

Yes, sir; the tree of liberty was planted in America in the Revolution; it was watered by the tears and nourished by the blood of our fathers; it has grown to be a great tree, and the branches thereof will cover this whole continent. I will not say the sons of the sunny South—I will not make the invidious distinction; but I will say the North and the South, the East and the West—the sons of the immortal heroes of the Revolution—will rally under its shadow, and defend the standard of our country with their lives, or, clinging to its branches, they will perish in its ruins.

Sir, I have done; and to Him who holds the destinies of nations in the hollow of His hand—who gives not the race to the swift, nor the battle to the strong—with a firm reliance on His divine protection, most willingly do I commit the fate of our beloved country.



0 017 187 261 3

LIBRARY OF CONGRESS



0 017 187 261 3

